

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85338301
LAW OFFICE ASSIGNED	LAW OFFICE 101
MARK SECTION (no change)	
ARGUMENT(S)	
<p>In response to the translation request, applicant still respectfully submits that its trademark IL VOLO was chosen and adopted to mean “to rise from earth to new heights” or “the rise from earth to new heights.” Although applicant has one sentence on its multiple page website that refers to flight or fly, applicant still does not believe that a change in translation is necessary. Applicant believes that the public record translation of its trademark phrase IL VOLO into “THE FLIGHT” would be too restrictive and not provide the correct commercial impression or meaning of IL VOLO as describing the uplifting music and the upward career of the three young tenors. Nevertheless, in an effort to advance prosecution, applicant is willing to state that one type of translation of IL VOLO is “The Flight” as noted below.</p> <p>Also in an effort to advance prosecution, and even though applicant does not believe there is any likelihood of confusion with its IL VOLO trademark with its Class 25 goods, applicant hereby deletes its <u>Class 25</u> goods from its application without prejudice.</p> <p>In response to the likelihood of confusion rejection against portions of applicant’s identification of goods in <u>Classes 9 and 16</u>, applicant has further amended its identification of goods in these classes to further distinguish its goods, channel of trade, and targeted customers from those of the remaining two cited registrations:</p> <ol style="list-style-type: none">1. VOLO trademark (U.S. Registration No. 2691403) for “Fiction and non-fiction books on a variety of topics” in Class 16.2. FLIGHT trademark (U.S. Registration No. 3857979) for “Mobile phones; Smartphones” in Class 9. <p>For at least the following reasons, there is no likelihood of confusion.</p> <p>First, applicant notes that the two cited registrations are owned by two different entities and already coexist with each other due to their different marks (VOLO v. FLIGHT), different goods, different channels of trade, and/or different targeted customers. Applicant sincerely believes that the same analysis should apply in this case and permit applicant to register its different trademark for its different goods that travel in a different channel of trade and are likely to, and intended to, be seen and sold to applicant’s fan base.</p> <p>Second, with respect to the cited VOLO registration covering “ <u>fiction and non-fiction books on a variety of topics</u>” in Class 16, applicant’s goods in Class 16 do not cover or relate to “fiction</p>	

and non-fiction books.” To assist with this distinction, applicant has specifically excluded fiction and non-fiction books from its Class 16 list of goods. Moreover, and in addition to applicant’s different trademark “IL VOLO,” applicant has further amended its Class 16 goods to note that many of its goods directly relate to the IL VOLO musical group. Fiction and non-fiction books are not the same as applicant’s narrowly focused magazines, newsletters, and brochures, as to kind, nature and trade channel -- in the field of music, singing, lyrics, opera, and concerts prepared by, performed by, or relating to the IL VOLO musical group. Furthermore, the targeted customers who purchase applicant’s narrowly focused goods are sophisticated consumers who do not impulsively purchase applicant’s goods, but, instead, purchase them knowing full well that they relate to the IL VOLO musical group. Thus, there is no likelihood of confusion with respect to the cited VOLO trademark in Class 16 for fiction and non-fiction books.

Third, with respect to the cited FLIGHT registration in Class 9 for mobile phones and smartphones, US consumers are not likely to translate applicant’s IL VOLO trademark into any FLIGHT trademark. Moreover, applicant’s Class 9 list of goods does not include the goods of the cited registration (“Mobile phones; Smartphones”). Applicant’s goods are different goods. Furthermore, applicant’s different Class 9 goods and channel of trade are directed to applicant’s fans who appreciate applicant’s music. Applicant’s fans are sophisticated consumers who enjoy applicant’s music and wish to purchase applicant’s specific goods bearing applicant’s IL VOLO trademark. It is highly unlikely that these consumers will confuse applicant’s IL VOLO trademark used on different goods with the FLIGHT trademark on mobile phones and smart phones. In this regard, it is unreasonable to assert that a mobile phone/smart phone business sector can conflict with applicant’s business sector involving photographic/cinematographic apparatus and even more so with all those products that have to do with sound and image recording, transmission or reproduction concerning the IL VOLO musical group. There is simply no likelihood of consumer confusion between the FLIGHT trademark used with mobile phones/smart phones and the IL VOLO trademark used with applicant’s different goods – many of which are prepared by or performed by the IL VOLO musical group.

For at least the foregoing reasons, applicant submits that there is no likelihood of confusion with the two cited registrations that are owned by two different entities and that already coexist with each other due to their different appearances (VOLO v. FLIGHT), goods, channels of trade, and targeted customers.

GOODS AND/OR SERVICES SECTION (009)(current)

INTERNATIONAL CLASS

009

DESCRIPTION

Photographic apparatus and instruments, namely, cameras, and video cameras; cinematographic apparatus and instruments; optical apparatus and instruments, namely, blank optical data carriers, spectacles, eye glasses, sun glasses, goggles for sports, and motorcycle goggles; life-saving apparatus and instruments, namely, bicycle helmets, motorcycle helmets, protective helmets for sports, and protective helmets; Apparatus for recording, transmission or reproduction of sound or images, and apparatus and devices, namely, computer software for integration of text, audio, graphics, still images and moving pictures into an interactive delivery for multimedia applications; Blank magnetic data carriers; Prerecorded magnetic data carriers, namely, prerecorded magnetic data carriers featuring music, singing, lyrics, opera, and concerts, and magnetic coded gift cards; Blank recording discs; Prerecorded compact discs and digital video discs featuring music, singing, lyrics, opera, and concerts; Downloadable electronic publications in the nature of MP3 files, digital music files, computer data files, CDs, DVDs, pod casts and manuals in the fields of music, signing, lyrics, opera, and concerts, all for entertainment purposes; All of the foregoing excluding computers and computer peripherals, and

excluding phones, mobile phones, and smartphones	
FILING BASIS	Section 44(e)
FOREIGN REGISTRATION NUMBER	009704107
FOREIGN REGISTRATION COUNTRY	European Community
FOREIGN REGISTRATION DATE	05/25/2011
FOREIGN EXPIRATION DATE	02/02/2021
GOODS AND/OR SERVICES SECTION (009)(proposed)	
INTERNATIONAL CLASS	009
TRACKED TEXT DESCRIPTION	
<p>Photographic apparatus and instruments, namely, cameras, and video cameras; cinematographic apparatus and instruments; optical apparatus and instruments, namely, blank optical data carriers, spectacles, eye glasses, sun glasses, goggles for sports, and motorcycle goggles; life-saving apparatus and instruments, namely, bicycle helmets, motorcycle helmets, protective helmets for sports, and protective helmets; Apparatus for recording, transmission or reproduction of sound or images, and apparatus and devices, namely, computer software for integration of text, audio, graphics, still images and moving pictures into an interactive delivery for multimedia applications; Blank magnetic data carriers; Prerecorded magnetic data carriers, namely, prerecorded magnetic data carriers featuring music, singing, lyrics, opera, and concerts, and magnetic coded gift cards; <u>Prerecorded magnetic data carriers, namely, prerecorded magnetic data carriers featuring music, singing, lyrics, opera, and concerts performed by the IL VOLO musical group, and magnetic coded gift cards;</u> Blank recording discs; Prerecorded compact discs and digital video discs featuring music, singing, lyrics, opera, and concerts; <u>Prerecorded compact discs and digital video discs featuring music, singing, lyrics, opera, and concerts performed by the IL VOLO musical group;</u> Downloadable electronic publications in the nature of MP3 files, digital music files, computer data files, CDs, DVDs, pod casts and manuals in the fields of music, signing, lyrics, opera, and concerts, all for entertainment purposes; <u>Downloadable electronic publications in the nature of MP3 files, digital music files, computer data files, CDs, DVDs, pod casts and manuals in the fields of music, signing, lyrics, opera, and concerts, all for entertainment purposes and prepared by or performed by the IL VOLO musical group;</u> All of the foregoing excluding computers and computer peripherals, and excluding phones, mobile phones, and smartphones; <u>All of the foregoing excluding computers and computer peripherals, phones, mobile phones, and smartphones.</u></p>	
FINAL DESCRIPTION	
<p>Photographic apparatus and instruments, namely, cameras, and video cameras; cinematographic apparatus and instruments; optical apparatus and instruments, namely, blank optical data carriers, spectacles, eye glasses, sun glasses, goggles for sports, and motorcycle goggles; life-saving apparatus and instruments, namely, bicycle helmets, motorcycle helmets, protective helmets for sports, and protective helmets; Apparatus for recording, transmission or reproduction of sound or images, and apparatus and devices, namely, computer software for integration of text, audio, graphics, still images and moving pictures into an interactive delivery for multimedia applications; Blank magnetic data carriers; Prerecorded magnetic data carriers, namely, prerecorded magnetic data carriers featuring music, singing, lyrics, opera, and concerts performed by the IL VOLO musical group, and magnetic coded gift cards; Blank recording discs; Prerecorded compact discs and digital video discs featuring</p>	

music, singing, lyrics, opera, and concerts performed by the IL VOLO musical group; Downloadable electronic publications in the nature of MP3 files, digital music files, computer data files, CDs, DVDs, pod casts and manuals in the fields of music, signing, lyrics, opera, and concerts, all for entertainment purposes and prepared by or performed by the IL VOLO musical group; All of the foregoing excluding computers and computer peripherals, phones, mobile phones, and smartphones.

FILING BASIS	Section 44(e)
FOREIGN REGISTRATION NUMBER	009704107
FOREIGN REGISTRATION COUNTRY	European Community
FOREIGN REGISTRATION DATE	05/25/2011
FOREIGN EXPIRATION DATE	02/02/2021
DATE FOREIGN REGISTRATION RENEWED (if applicable)	02/02/2021

GOODS AND/OR SERVICES SECTION (016)(current)

INTERNATIONAL CLASS	016
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DESCRIPTION

Paper, cardboard and goods made from these materials, namely, boxes, writing pads; Printed matter, namely, photo sets comprised of photographs and photo albums, photo albums, mini photo albums, paper gift certificates, posters, magazines, newsletters, and brochures in the field of music, singing, lyrics, opera, and concerts; Photographs; Stationery; Artists' materials, namely, pens, pencils; Instructional and teaching material, except apparatus, namely, printed instructional and teaching material in the field of learning music, music, singing, lyrics, opera, and concerts, excluding books; All of the foregoing excluding fiction and non-fiction books on a variety of topics

FILING BASIS	Section 44(e)
FOREIGN REGISTRATION NUMBER	009704107
FOREIGN REGISTRATION COUNTRY	European Community
FOREIGN REGISTRATION DATE	05/25/2011
FOREIGN EXPIRATION DATE	02/02/2021
DATE FOREIGN REGISTRATION RENEWED (if applicable)	02/02/2021

GOODS AND/OR SERVICES SECTION (016)(proposed)

INTERNATIONAL CLASS	016
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TRACKED TEXT DESCRIPTION

Paper, cardboard and goods made from these materials, namely, boxes, writing pads; ~~Printed matter, namely, photo sets comprised of photographs and photo albums, photo albums, mini photo albums,~~

~~paper gift certificates, posters, magazines, newsletters, and brochures in the field of music, singing, lyrics, opera, and concerts; Printed matter, namely, photo sets comprised of photographs and photo albums, photo albums, mini photo albums, paper gift certificates, posters, magazines, newsletters, and brochures in the field of music, singing, lyrics, opera, and concerts prepared by, performed by, or relating to the IL VOLO musical group; Photographs; Stationery; Artists' materials, namely, pens, pencils; Instructional and teaching material, except apparatus, namely, printed instructional and teaching material in the field of learning music, music, singing, lyrics, opera, and concerts, excluding books; All of the foregoing excluding fiction and non-fiction books on a variety of topics; All of the foregoing excluding fiction and non-fiction books.~~

FINAL DESCRIPTION

Paper, cardboard and goods made from these materials, namely, boxes, writing pads; Printed matter, namely, photo sets comprised of photographs and photo albums, photo albums, mini photo albums, paper gift certificates, posters, magazines, newsletters, and brochures in the field of music, singing, lyrics, opera, and concerts prepared by, performed by, or relating to the IL VOLO musical group; Photographs; Stationery; Artists' materials, namely, pens, pencils; Instructional and teaching material, except apparatus, namely, printed instructional and teaching material in the field of learning music, music, singing, lyrics, opera, and concerts, excluding books; All of the foregoing excluding fiction and non-fiction books.

FILING BASIS

Section 44(e)

FOREIGN REGISTRATION NUMBER

009704107

FOREIGN REGISTRATION COUNTRY

European Community

FOREIGN REGISTRATION DATE

05/25/2011

FOREIGN EXPIRATION DATE

02/02/2021

DATE FOREIGN REGISTRATION RENEWED (if applicable)

02/02/2021

GOODS AND/OR SERVICES SECTION (025)(class deleted)

GOODS AND/OR SERVICES SECTION (041)(no change)

ADDITIONAL STATEMENTS SECTION

TRANSLATION

The English translation of IL VOLO in the mark is THE FLIGHT.

SIGNATURE SECTION

RESPONSE SIGNATURE

/DMB/

SIGNATORY'S NAME

Duane M. Byers

SIGNATORY'S POSITION

Attorney of record, Virginia bar member

SIGNATORY'S PHONE NUMBER

7037867421

DATE SIGNED

12/17/2013

AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Tue Dec 17 23:53:12 EST 2013
TEAS STAMP	USPTO/RFR-184.52.111.102- 20131217235312293917-8533 8301-500c31dfc57acdc93a81 cca1c355971da149420f1de70 55cdf73664fdf2c6af-N/A-N/ A-20131217234658526232

PTO Form 1930 (Rev 9/2007)
OMB No. 0651-0050 (Exp. 05/31/2014)

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **85338301** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

In response to the translation request, applicant still respectfully submits that its trademark IL VOLO was chosen and adopted to mean “to rise from earth to new heights” or “the rise from earth to new heights.” Although applicant has one sentence on its multiple page website that refers to flight or fly, applicant still does not believe that a change in translation is necessary. Applicant believes that the public record translation of its trademark phrase IL VOLO into “THE FLIGHT” would be too restrictive and not provide the correct commercial impression or meaning of IL VOLO as describing the uplifting music and the upward career of the three young tenors. Nevertheless, in an effort to advance prosecution, applicant is willing to state that one type of translation of IL VOLO is “The Flight” as noted below.

Also in an effort to advance prosecution, and even though applicant does not believe there is any likelihood of confusion with its IL VOLO trademark with its Class 25 goods, applicant hereby deletes its Class 25 goods from its application without prejudice.

In response to the likelihood of confusion rejection against portions of applicant’s identification of goods in Classes 9 and 16, applicant has further amended its identification of goods in these classes to further distinguish its goods, channel of trade, and targeted customers from those of the remaining two cited registrations:

1. VOLO trademark (U.S. Registration No. 2691403) for “Fiction and non-fiction books on a variety of topics” in Class 16.

2. FLIGHT trademark (U.S. Registration No. 3857979) for “Mobile phones; Smartphones” in Class 9.

For at least the following reasons, there is no likelihood of confusion.

First, applicant notes that the two cited registrations are owned by two different entities and already coexist with each other due to their different marks (VOLO v. FLIGHT), different goods, different channels of trade, and/or different targeted customers. Applicant sincerely believes that the same analysis should apply in this case and permit applicant to register its different trademark for its different goods that travel in a different channel of trade and are likely to, and intended to, be seen and sold to applicant's fan base.

Second, with respect to the cited VOLO registration covering “fiction and non-fiction books on a variety of topics” in Class 16, applicant's goods in Class 16 do not cover or relate to “fiction and non-fiction books.” To assist with this distinction, applicant has specifically excluded fiction and non-fiction books from its Class 16 list of goods. Moreover, and in addition to applicant's different trademark “IL VOLO,” applicant has further amended its Class 16 goods to note that many of its goods directly relate to the IL VOLO musical group. Fiction and non-fiction books are not the same as applicant's narrowly focused magazines, newsletters, and brochures, as to kind, nature and trade channel -- in the field of music, singing, lyrics, opera, and concerts prepared by, performed by, or relating to the IL VOLO musical group. Furthermore, the targeted customers who purchase applicant's narrowly focused goods are sophisticated consumers who do not impulsively purchase applicant's goods, but, instead, purchase them knowing full well that they relate to the IL VOLO musical group. Thus, there is no likelihood of confusion with respect to the cited VOLO trademark in Class 16 for fiction and non-fiction books.

Third, with respect to the cited FLIGHT registration in Class 9 for mobile phones and smartphones, US consumers are not likely to translate applicant's IL VOLO trademark into any FLIGHT trademark. Moreover, applicant's Class 9 list of goods does not include the goods of the cited registration (“Mobile phones; Smartphones”). Applicant's goods are different goods. Furthermore, applicant's different Class 9 goods and channel of trade are directed to applicant's fans who appreciate applicant's music. Applicant's fans are sophisticated consumers who enjoy applicant's music and wish to purchase applicant's specific goods bearing applicant's IL VOLO trademark. It is highly unlikely that these consumers will confuse applicant's IL VOLO trademark used on different goods with the FLIGHT trademark on mobile phones and smart phones. In this regard, it is unreasonable to assert that a mobile phone/smart phone business sector can conflict with applicant's business sector involving photographic/cinematographic apparatus and even more so with all those products that have to do with sound and image recording, transmission or reproduction concerning the IL VOLO musical group. There is simply no likelihood of consumer confusion between the FLIGHT trademark used with mobile phones/smart phones and the IL VOLO trademark used with applicant's different goods – many of which are prepared by or performed by the IL VOLO musical group.

For at least the foregoing reasons, applicant submits that there is no likelihood of confusion with the two cited registrations that are owned by two different entities and that already coexist with each other due to their different appearances (VOLO v. FLIGHT), goods, channels of trade, and targeted customers.

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant hereby deletes the following class of goods/services from the application.

Class 025 for Clothing, namely, shirts, dresses, shorts, trousers, sweaters, blazers, fleece tops, fleece pullovers, sweatshirts, underwear, swimwear; footwear; headgear, namely, caps, visors, hats, headbands, and headwear

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 009 for Photographic apparatus and instruments, namely, cameras, and video cameras; cinematographic apparatus and instruments; optical apparatus and instruments, namely, blank optical data carriers, spectacles, eye glasses, sun glasses, goggles for sports, and motorcycle goggles; life-saving apparatus and instruments, namely, bicycle helmets, motorcycle helmets, protective helmets for sports, and protective helmets; Apparatus for recording, transmission or reproduction of sound or images, and apparatus and devices, namely, computer software for integration of text, audio, graphics, still images and moving pictures into an interactive delivery for multimedia applications; Blank magnetic data carriers; Prerecorded magnetic data carriers, namely, prerecorded magnetic data carriers featuring music, singing, lyrics, opera, and concerts, and magnetic coded gift cards; Blank recording discs; Prerecorded compact discs and digital video discs featuring music, singing, lyrics, opera, and concerts; Downloadable electronic publications in the nature of MP3 files, digital music files, computer data files, CDs, DVDs, pod casts and manuals in the fields of music, signing, lyrics, opera, and concerts, all for entertainment purposes; All of the foregoing excluding computers and computer peripherals, and excluding phones, mobile phones, and smartphones

Original Filing Basis:

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and submits a copy of [European Community registration number 009704107 registered 05/25/2011 with a renewal date of _____ and an expiration date of 02/02/2021], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

Proposed:

Tracked Text Description: Photographic apparatus and instruments, namely, cameras, and video cameras; cinematographic apparatus and instruments; optical apparatus and instruments, namely, blank optical data carriers, spectacles, eye glasses, sun glasses, goggles for sports, and motorcycle goggles; life-saving apparatus and instruments, namely, bicycle helmets, motorcycle helmets, protective helmets for sports, and protective helmets; Apparatus for recording, transmission or reproduction of sound or images, and apparatus and devices, namely, computer software for integration of text, audio, graphics, still images and moving pictures into an interactive delivery for multimedia applications; Blank magnetic data carriers; ~~Prerecorded magnetic data carriers, namely, prerecorded magnetic data carriers featuring music, singing, lyrics, opera, and concerts, and magnetic coded gift cards;~~ Prerecorded magnetic data carriers, namely, prerecorded magnetic data carriers featuring music, singing, lyrics, opera, and concerts performed by the IL VOLO musical group, and magnetic coded gift cards; Blank recording discs; ~~Prerecorded compact discs and digital video discs featuring music, singing, lyrics, opera, and concerts;~~ Prerecorded compact discs and digital video discs featuring music, singing, lyrics, opera, and concerts performed by the IL VOLO musical group; ~~Downloadable electronic publications in the nature of MP3 files, digital music files, computer data files, CDs, DVDs, pod casts and manuals in the fields of music, signing, lyrics, opera, and concerts, all for entertainment purposes;~~ Downloadable electronic publications in the nature of MP3 files, digital music files, computer data files, CDs, DVDs, pod casts and manuals in the fields of music, signing, lyrics, opera, and concerts, all for entertainment purposes and prepared by or performed by the IL VOLO musical group; ~~All of the foregoing excluding computers and computer peripherals, and excluding phones, mobile phones, and smartphones;~~ All of the foregoing excluding computers and computer peripherals, phones, mobile phones, and smartphones.

Class 009 for Photographic apparatus and instruments, namely, cameras, and video cameras; cinematographic apparatus and instruments; optical apparatus and instruments, namely, blank optical data carriers, spectacles, eye glasses, sun glasses, goggles for sports, and motorcycle goggles; life-saving apparatus and instruments, namely, bicycle helmets, motorcycle helmets, protective helmets for sports,

and protective helmets; Apparatus for recording, transmission or reproduction of sound or images, and apparatus and devices, namely, computer software for integration of text, audio, graphics, still images and moving pictures into an interactive delivery for multimedia applications; Blank magnetic data carriers; Prerecorded magnetic data carriers, namely, prerecorded magnetic data carriers featuring music, singing, lyrics, opera, and concerts performed by the IL VOLO musical group, and magnetic coded gift cards; Blank recording discs; Prerecorded compact discs and digital video discs featuring music, singing, lyrics, opera, and concerts performed by the IL VOLO musical group; Downloadable electronic publications in the nature of MP3 files, digital music files, computer data files, CDs, DVDs, pod casts and manuals in the fields of music, signing, lyrics, opera, and concerts, all for entertainment purposes and prepared by or performed by the IL VOLO musical group; All of the foregoing excluding computers and computer peripherals, phones, mobile phones, and smartphones.

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and will submit a copy of [European Community registration number 009704107 registered 05/25/2011 with a renewal date of 02/02/2021 and an expiration date of 02/02/2021], and translation thereof, if appropriate, before the application may proceed to registration. 15 U.S.C. Section 1126(e), as amended.

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 016 for Paper, cardboard and goods made from these materials, namely, boxes, writing pads; Printed matter, namely, photo sets comprised of photographs and photo albums, photo albums, mini photo albums, paper gift certificates, posters, magazines, newsletters, and brochures in the field of music, singing, lyrics, opera, and concerts; Photographs; Stationery; Artists' materials, namely, pens, pencils; Instructional and teaching material, except apparatus, namely, printed instructional and teaching material in the field of learning music, music, singing, lyrics, opera, and concerts, excluding books; All of the foregoing excluding fiction and non-fiction books on a variety of topics

Original Filing Basis:

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and submits a copy of [European Community registration number 009704107 registered 05/25/2011 with a renewal date of 02/02/2021 and an expiration date of 02/02/2021], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

Proposed:

Tracked Text Description: Paper, cardboard and goods made from these materials, namely, boxes, writing pads; ~~Printed matter, namely, photo sets comprised of photographs and photo albums, photo albums, mini photo albums, paper gift certificates, posters, magazines, newsletters, and brochures in the field of music, singing, lyrics, opera, and concerts;~~ Printed matter, namely, photo sets comprised of photographs and photo albums, photo albums, mini photo albums, paper gift certificates, posters, magazines, newsletters, and brochures in the field of music, singing, lyrics, opera, and concerts prepared by, performed by, or relating to the IL VOLO musical group; Photographs; Stationery; Artists' materials, namely, pens, pencils; Instructional and teaching material, except apparatus, namely, printed instructional and teaching material in the field of learning music, music, singing, lyrics, opera, and concerts, excluding books; ~~All of the foregoing excluding fiction and non-fiction books on a variety of topics;~~ All of the foregoing excluding fiction and non-fiction books.

Class 016 for Paper, cardboard and goods made from these materials, namely, boxes, writing pads; Printed matter, namely, photo sets comprised of photographs and photo albums, photo albums, mini photo albums, paper gift certificates, posters, magazines, newsletters, and brochures in the field of music, singing, lyrics, opera, and concerts prepared by, performed by, or relating to the IL VOLO musical group; Photographs;

Stationery; Artists' materials, namely, pens, pencils; Instructional and teaching material, except apparatus, namely, printed instructional and teaching material in the field of learning music, music, singing, lyrics, opera, and concerts, excluding books; All of the foregoing excluding fiction and non-fiction books.

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and will submit a copy of [European Community registration number 009704107 registered 05/25/2011 with a renewal date of 02/02/2021 and an expiration date of 02/02/2021], and translation thereof, if appropriate, before the application may proceed to registration. 15 U.S.C. Section 1126(e), as amended.

ADDITIONAL STATEMENTS

Translation

The English translation of IL VOLO in the mark is THE FLIGHT.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /DMB/ Date: 12/17/2013

Signatory's Name: Duane M. Byers

Signatory's Position: Attorney of record, Virginia bar member

Signatory's Phone Number: 7037867421

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 85338301

Internet Transmission Date: Tue Dec 17 23:53:12 EST 2013

TEAS Stamp: USPTO/RFR-184.52.111.102-201312172353122

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